

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CATHERINE M USENZA,

Plaintiff,

v.

Case No.: 2:21-cv-845-KCD

COMMISSIONER OF SOCIAL
SECURITY,

Defendants.

_____ /

ORDER

Having obtained an award of benefits, Catherine Usenza's attorney, Carol Avar, requests attorney's fees under 42 U.S.C. § 406(b). (Doc. 30.) Defendant has no opposition.

Section 406(b) provides that an attorney who obtains a benefits award on remand may petition for a reasonable fee—not to exceed twenty-five percent of the claimant's past-due benefits—for work performed before the court.

Here, Avar requests \$32,355.25, which is 25 percent of past-due benefits. Avar further asserts that the previous EAJA award of \$7,508.59 will be returned to Plaintiff. (Doc. 30 at 3); see *Paltan v. Comm'r of Soc. Sec.*, 519 F. App'x 673, 674 (11th Cir. 2013) (noting that the attorney has the option of either refunding the EAJA award to the plaintiff directly or reducing the § 406(b) award by the same amount). For the reasons stated in Williams's

unopposed motion, the requested fee is both reasonable and appropriate under § 406(b).

Accordingly, the unopposed fee motion (Doc. 30) is **GRANTED**. The clerk will enter judgment for Usenza for \$32,355.25 in attorney's fees under 42 U.S.C. § 406(b).

ORDERED in Fort Myers, Florida this August 7, 2023.



Kyle C. Dudek
United States Magistrate Judge

Copies: All Parties of Record